

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## **HOUSE CONCURRENT RESOLUTION 2045**

### **A CONCURRENT RESOLUTION**

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, SECTIONS 3 AND 4, CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, CONSTITUTION OF ARIZONA, BY ADDING SECTIONS 4.1 AND 4.2; RELATING TO STATE TRUST LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Whereas, the purpose of this proposition is to preserve the mission of the state land trust by ensuring and increasing the economic value of the trust for the benefit of public schools and the other beneficiaries through prudent planning while providing opportunities for conservation consistent with the mission of the state land trust.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Article X, section 3, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

3. Mortgage or other encumbrance; sale or lease at public auction

Section 3. A. No mortgage or other encumbrance of the said lands, or any part thereof, shall be valid in favor of any person or for any purpose or under any circumstances whatsoever.

B. Said lands shall not be sold or leased, in whole or in part, except to the highest and best bidder at a public auction to be held at the county seat of the county wherein the lands to be affected, or the major portion thereof, shall lie. ~~Notice of which public THE auction shall first have been duly given by advertisement, which~~ shall set forth the nature, time and place of the transaction to be had, with a full description of the lands to be offered. ~~and~~ THE NOTICE SHALL be:

1. POSTED ON THE OFFICIAL WEB SITE FOR AT LEAST THIRTY-FIVE DAYS BEFORE THE AUCTION.

2. Published AT LEAST once each week for not less than ~~ten~~ FIVE successive weeks BEFORE THE AUCTION in a newspaper of general circulation published regularly at the state capital, ~~and in that A newspaper of like GENERAL circulation which shall then be regularly published nearest to the location IN THE VICINITY~~ of the lands so offered. ~~nor shall any~~

C. NO sale or contract for the sale of any timber or other natural product of such lands MAY be made, save at the place, in the manner, and after the notice by publication provided for sales and leases of the lands themselves.

D. Nothing ~~herein~~ IN THIS SECTION, or elsewhere in THIS article ~~X-contained~~, shall prevent:

1. The leasing of any of the lands referred to in this article in such manner as the legislature may prescribe, for grazing, agricultural, commercial and homesite purposes, for a term of ten years or less, without advertisement OR AUCTION. ~~;~~

2. The leasing of any of said lands, in such manner as the legislature may prescribe, whether or not also leased for grazing and agricultural purposes, for mineral purposes, other

1 than for the exploration, development,~~—~~ and production of oil,  
2 gas and other hydrocarbon substances, for a term of twenty years  
3 or less, without advertisement,~~—~~ or AUCTION. ~~—~~

4 3. The leasing of any of said lands, whether or not also  
5 leased for other purposes, for the exploration, development, and  
6 production of oil, gas and other hydrocarbon substances on, in  
7 or under said lands for an initial term of twenty ~~(20)~~ years or  
8 less and as long thereafter as oil, gas or other hydrocarbon  
9 substance may be procured therefrom in paying quantities, the  
10 leases to be made in any manner, with or without advertisement,  
11 bidding,~~—~~ or appraisal, and under such terms and provisions,  
12 as the legislature may prescribe, the terms and provisions to  
13 include a reservation of a royalty to the state of not less than  
14 twelve and one-half per cent of production.

15 4. GRANTING PUBLIC RIGHTS-OF-WAY AND EASEMENTS TO A  
16 FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY WITHOUT  
17 ADVERTISEMENT OR AUCTION IN A MANNER PRESCRIBED BY LAW.

18 5. THE DISPOSITION WITHOUT ADVERTISEMENT OR AUCTION OF  
19 LANDS THAT ARE DESIGNATED AS SUITABLE FOR CONSERVATION IN A PLAN  
20 PREPARED AND APPROVED PURSUANT TO SECTION 4.1 OF THIS ARTICLE.

21 6. THE DISPOSITION WITHOUT ADVERTISEMENT OR AUCTION OF  
22 CONSERVATION LANDS AS PROVIDED BY SECTION 4.2 OF THIS ARTICLE.

23 2. Article X, section 4, Constitution of Arizona, is proposed to be  
24 amended as follows if approved by the voters and on proclamation of the  
25 Governor:

26 4. Sale or other disposal; appraisal; consideration  
27 and value

28 Section 4. A. All lands, ~~lease-holds~~ LEASEHOLDS,  
29 timber,~~—~~ and other products of land, before being offered, shall  
30 be appraised at their true value. ~~—and~~ EXCEPT AS PROVIDED IN  
31 THIS ARTICLE, no sale or other disposal thereof shall be made:

32 1. For a consideration less than the value so  
33 ascertained. ~~—nor~~

34 2. In any case less than the minimum price hereinafter  
35 fixed. ~~—nor~~

36 3. Upon credit unless accompanied by ample security.  
37 ~~—and~~

38 B. The legal title shall not be deemed to have passed  
39 until the consideration shall have been paid.

40 C. RIGHTS-OF-WAY FOR PUBLIC ROADWAYS THAT WERE  
41 ESTABLISHED OR MAINTAINED BEFORE JANUARY 1, 1968 AND USED OR  
42 MAINTAINED SINCE JANUARY 1, 1968 SHALL BE GRANTED WITHOUT  
43 FURTHER CONSIDERATION IN A MANNER PRESCRIBED BY LAW.

1           3. Article X, Constitution of Arizona, is proposed to be amended by  
2 adding sections 4.1 and 4.2 as follows if approved by the voters and on  
3 proclamation of the Governor:

4           4.1. Planning: definition

5           SECTION 4.1. A. IN AN URBAN AREA, AS DEFINED IN SECTION  
6 4.2 OF THIS ARTICLE, LAND HELD IN TRUST UNDER THIS ARTICLE MAY  
7 BE SUBJECT TO A PLAN FOR THE USE OF THE LAND FOR COMMERCIAL  
8 PURPOSES, PREPARED IN CONSULTATION WITH A COUNTY, CITY OR TOWN  
9 IN A MANNER PRESCRIBED BY LAW AND PURSUANT TO ORDINANCES, RULES  
10 AND REGULATIONS OF THE COUNTY, CITY OR TOWN IN WHICH THE LAND IS  
11 LOCATED, IF THOSE ORDINANCES, RULES AND REGULATIONS ARE NOT  
12 DISCRIMINATORY AS WRITTEN OR APPLIED TO THE LAND HELD IN TRUST  
13 AS COMPARED TO THE TREATMENT OF PRIVATELY OWNED LAND LOCATED IN  
14 THE COUNTY, CITY OR TOWN. IF THE PLAN PREPARED FOR THE USE OF  
15 THE LAND IS INCOMPATIBLE WITH THE PLAN PREPARED BY THE COUNTY,  
16 CITY OR TOWN, THE ELEMENTS OF THE PLANS THAT ARE IN DISPUTE ARE  
17 SUBJECT TO RESOLUTION IN A MANNER PRESCRIBED BY LAW.

18           B. THE PLAN MAY DESIGNATE MORE OF THE LAND AS SUITABLE  
19 FOR CONSERVATION THAN WOULD BE AUTHORIZED IN A NONDISCRIMINATORY  
20 PLAN, AND THE ADDITIONAL LAND IS SUBJECT TO DISPOSITION, IN A  
21 MANNER PRESCRIBED BY LAW, IF:

22           1. THE DISPOSITION WILL BRING BENEFIT TO OTHER LAND THAT  
23 IS HELD IN TRUST AND SUBJECT TO THE PLAN. THE TRUE VALUE OF THE  
24 ADDITIONAL LAND DESIGNATED AS SUITABLE FOR CONSERVATION IS THE  
25 DIFFERENCE, IF ANY, BETWEEN THE VALUE OF ALL THE LAND THAT IS  
26 SUBJECT TO THE PLAN ASSUMING A NONDISCRIMINATORY PLAN AND THE  
27 VALUE OF ALL THE LAND THAT IS SUBJECT TO THE PLAN DESIGNATING  
28 THE ADDITIONAL LAND AS SUITABLE FOR CONSERVATION, AS DETERMINED  
29 BY APPRAISAL. THE AGGREGATE MARKET VALUATION OF ALL LAND THAT  
30 IS HELD IN TRUST AND SUBJECT TO THE PLAN MUST NOT BE DIMINISHED  
31 DUE TO THE DESIGNATION AND DISPOSITION OF THE LAND AS SUITABLE  
32 FOR CONSERVATION.

33           2. THE ADDITIONAL LAND DESIGNATED AS SUITABLE FOR  
34 CONSERVATION IS DISPOSED OF TO THE COUNTY, CITY OR TOWN ON THE  
35 COMPLETION OF THE APPRAISAL FOR CONSIDERATION OF NOT LESS THAN  
36 THE DETERMINED TRUE VALUE, WHICH MAY BE PROVIDED IN THE FORM OF  
37 MONETARY CONSIDERATION OR NONMONETARY CONSIDERATION, OR BOTH, IN  
38 A MANNER PRESCRIBED BY LAW.

39           3. THE PLAN IS THE SUBJECT OF AN AGREEMENT WITH THE  
40 COUNTY, CITY OR TOWN THAT ESTABLISHES THE COMMERCIAL PURPOSES OF  
41 THE LAND THAT IS NOT DESIGNATED AS SUITABLE FOR CONSERVATION.

42           4. ALL LAND THAT IS DESIGNATED AS SUITABLE FOR  
43 CONSERVATION IS HELD IN TRUST FOR THE SAME PUBLIC BENEFICIARY.

1           5. IT IS A PERMANENT CONDITION OF ANY DISPOSITION OF LAND  
2 DESIGNATED AS SUITABLE FOR CONSERVATION PURSUANT TO THIS SECTION  
3 THAT THE LAND WILL BE:

4           (a) RESTRICTED AGAINST DEVELOPMENT, AS DEFINED IN SECTION  
5 4.2 OF THIS ARTICLE.

6           (b) MANAGED AND USED IN A MANNER CONSISTENT WITH  
7 CONSERVATION, AS DEFINED IN SECTION 4.2 OF THIS ARTICLE.

8           (c) SUBJECT TO REASONABLE PUBLIC ACCESS.

9           C. FOR THE PURPOSES OF THIS SECTION, "COMMERCIAL  
10 PURPOSES" MEANS THE USE OF THE LAND FOR ANY PURPOSE OTHER THAN  
11 AGRICULTURAL OR GRAZING PURPOSES.

12           4.2. Conservation lands; definitions

13           SECTION 4.2. A. IN AN URBAN AREA, LANDS THAT, PURSUANT  
14 TO LAW, WERE CLASSIFIED AS SUITABLE FOR CONSERVATION PURPOSES  
15 BEFORE JANUARY 1, 2005 MAY BE CONVEYED AS CONSERVATION LANDS  
16 WITHOUT ADVERTISEMENT OR AUCTION TO THE CITY, TOWN OR COUNTY IN  
17 WHICH THEY ARE LOCATED, BUT ONLY IF COMPENSATION IS PROVIDED TO  
18 THE RESPECTIVE PERMANENT FUND IN A MANNER PRESCRIBED BY LAW.  
19 ANY DISPUTE ARISING UNDER THIS SUBSECTION IS SUBJECT TO  
20 RESOLUTION IN A MANNER PRESCRIBED BY LAW.

21           B. THE LEGISLATURE SHALL PRESCRIBE A PROCESS BY LAW FOR  
22 DESIGNATING FOR CONSERVATION PURPOSES UP TO FOUR HUNDRED  
23 THOUSAND ACRES OF LAND THAT IS NOT LOCATED IN AN URBAN AREA.  
24 ALL LAND THAT IS DESIGNATED FOR CONSERVATION UNDER THIS  
25 SUBSECTION MUST BE HELD IN TRUST FOR THE SAME PUBLIC  
26 BENEFICIARY. THESE LANDS MAY BE CONVEYED WITHOUT ADVERTISEMENT,  
27 AUCTION OR CONSIDERATION TO THE COUNTY IN WHICH THEY ARE  
28 LOCATED. NOTWITHSTANDING ARTICLE IV, PART 2, SECTION 19, ANY  
29 DESIGNATION OF LANDS PURSUANT TO THIS SUBSECTION MUST BE  
30 APPROVED INDIVIDUALLY BY LAW. A LAW TO APPROVE THE DESIGNATION  
31 OF CONSERVATION LANDS PURSUANT TO THIS SUBSECTION IS SUBJECT TO  
32 THE POWER OF THE REFERENDUM AND IS NOT CONSIDERED TO BE  
33 IMMEDIATELY NECESSARY FOR THE PRESERVATION OF THE PUBLIC PEACE,  
34 HEALTH OR SAFETY OR FOR THE SUPPORT AND MAINTENANCE OF THE  
35 DEPARTMENTS OF STATE GOVERNMENT AND STATE INSTITUTIONS.

36           C. IT IS A PERMANENT CONDITION OF ANY CONVEYANCE OR  
37 DISPOSITION OF CONSERVATION LAND PURSUANT TO SUBSECTION A OR B  
38 OF THIS SECTION THAT THE LAND WILL BE:

39           1. RESTRICTED AGAINST DEVELOPMENT.

40           2. MANAGED AND USED IN A MANNER CONSISTENT WITH  
41 CONSERVATION.

42           3. SUBJECT TO REASONABLE PUBLIC ACCESS.

43           D. ANY CONVEYANCE OR OTHER DISPOSITION OF LANDS PURSUANT  
44 TO THIS SECTION IS SUBJECT TO THE RESERVATION THAT ALL OIL, GAS,  
45 OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A

1 GASEOUS NATURE, GEOTHERMAL RESOURCES, COAL, METALS, MINERALS,  
2 FOSSILS, FERTILIZER OF EVERY DESCRIPTION, URANIUM, THORIUM OR  
3 ANY OTHER MATERIAL THAT IS OR MAY BE PECULIARLY ESSENTIAL TO THE  
4 PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF  
5 COMMERCIAL VALUE, AND THE EXCLUSIVE RIGHT THERETO, ON, IN OR  
6 UNDER THE LAND, IS RESERVED IN AND RETAINED BY THE STATE,  
7 REGARDLESS OF THE CONVEYANCE AND THE ISSUANCE OF ANY EVIDENCE OF  
8 CONVEYANCE. A MINERAL RESERVATION UNDER THIS SUBSECTION SHALL  
9 NOT INCLUDE COMMON VARIETY MINERALS SUCH AS SAND, GRAVEL OR  
10 OTHER AGGREGATE, ROAD BASE MATERIAL, LIMESTONE OR GYPSUM.

11 E. NOTHING IN THIS SECTION PREVENTS THE CONTINUATION OR  
12 RENEWAL OF ANY LEASE, RIGHT-OF-WAY OR OTHER USE OF THE LAND THAT  
13 WAS IN EXISTENCE AS OF THE DATE OF CONVEYANCE OR DISPOSITION OF  
14 CONSERVATION LAND.

15 F. FOR THE PURPOSES OF THIS SECTION:

16 1. "CONSERVATION" MEANS RESTRICTING THE USE OF THE LAND  
17 AGAINST DEVELOPMENT.

18 2. "DEVELOPMENT" MEANS BUILDINGS AND OTHER STRUCTURES FOR  
19 RESIDENTIAL, AGRICULTURAL, COMMERCIAL OR PUBLIC USE BUT DOES NOT  
20 INCLUDE BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS EXISTING  
21 BEFORE JANUARY 1, 2009 OR FENCES, PATHS, TRAILS, TRAILHEADS,  
22 ROADWAYS, UTILITY LINES AND ASSOCIATED FACILITIES, CANALS,  
23 DRAINAGE IMPROVEMENTS, WELLS, SIGNAGE, RANGE IMPROVEMENTS,  
24 COMMUNICATIONS FACILITIES, RESEARCH OR MONITORING STATIONS AND  
25 ASSOCIATED EQUIPMENT OR, IN ORDER TO FACILITATE REASONABLE  
26 PUBLIC ACCESS, PICNIC, CAMPING, PARKING, SECURITY, COMFORT,  
27 MAINTENANCE AND SIMILAR FACILITIES THAT ARE COMPATIBLE WITH  
28 CONSERVATION.

29 3. "URBAN AREA" MEANS:

30 (a) WITHIN OR ADJACENT TO THE EXTERIOR CORPORATE  
31 BOUNDARIES OF A CITY OR TOWN.

32 (b) WITHIN THREE MILES OUTSIDE THE CORPORATE BOUNDARY OF  
33 A CITY OR TOWN HAVING A POPULATION OF LESS THAN TEN THOUSAND  
34 PERSONS.

35 (c) WITHIN FIVE MILES OUTSIDE THE CORPORATE BOUNDARY OF A  
36 CITY OR TOWN HAVING A POPULATION OF TEN THOUSAND PERSONS OR  
37 MORE.

38 4. Conditional repeal

39 Sections 1, 2 and 3 of this proposition are repealed if the initiative  
40 styled "Conserving Arizona's Future" and designated by the Secretary of State  
41 as C-03-2006 is approved by the voters at the general election held  
42 November 7, 2006 and becomes effective pursuant to article XXI, Constitution  
43 of Arizona.

1           5. Submission to voters: conditional enactment

2           A. The Secretary of State shall submit this proposition to the voters  
3 at the next general election as provided by article XXI, Constitution of  
4 Arizona.

5           B. Sections 1, 2 and 3 of this proposition are not effective unless  
6 both of the following occur:

7           1. This proposition is approved and ratified by the voters pursuant to  
8 subsection A of this section and the conditional repeal described in section  
9 4 of this proposition does not occur.

10          2. On or before December 31, 2008, the Arizona-New Mexico Enabling Act  
11 (Act of June 20, 1910; 36 Stat. 557) is amended by Congress and signed into  
12 law to authorize the amendment of the Constitution of Arizona as proposed by  
13 sections 1 and 2 of this proposition. On or before December 31, 2008, the  
14 state land commissioner shall notify the director of the legislative council  
15 in writing whether or not this condition occurred and the date the enabling  
16 act was amended.